

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Northern District of California

United States of America

v.

DONALD STEPHEN KYLE,

*Defendant(s)***FILED**

Jul 02 2021

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

Case No. 4:21-mj-71116-MAG

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of July 1, 2020 in the county of Contra Costa in the
Northern District of California, the defendant(s) violated:*Code Section*

18 U.S.C. § 2252(a)(4)(B), (b)(2)

Offense Description

Possession of Child Pornography

Maximum Penalties: maximum term of 10 years
imprisonment (20 years imprisonment if prepubescent
minors or minors under the age of 12 are involved);
\$250,000 fine; at least 5 years but up to lifetime term of
supervised release; \$5,100 special assessment; forfeiture

This criminal complaint is based on these facts:

Attached Affidavit of Federal Bureau of Investigation Special Agent Meredith Sparano Stanger

☒ Continued on the attached sheet.

Approved As To Form:

Jonathan U. Lee

AUSA JONATHAN U. LEE

/s/ Meredith Sparano Stanger*Complainant's signature*

Meredith Sparano Stanger, FBI Special Agent

Printed name and title

Sworn to before me over the telephone, pursuant to Fed. R. Crim. Proc. 4.1.

Date: July 2, 2021Susan van Keulen
*Judge's signature*City and state: San Jose, California

Hon. Susan van Keulen, U.S. Magistrate Judge

Printed name and title

**AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT
AND ARREST WARRANT**

I, Meredith Sparano Stanger, Special Agent with the Federal Bureau of Investigation, being duly sworn, state:

INTRODUCTION

1. I submit this affidavit in support of a Criminal Complaint and Arrest Warrant for Donald Stephen KYLE ("KYLE"), a 56-year old resident of Hercules, California. This affidavit is made in support of a criminal complaint charging KYLE with possession of child pornography, in violation of 18 U.S.C. § 2252(a)(4)(B), (b)(2).

SOURCES OF INFORMATION

2. This affidavit is submitted for the limited purpose of a securing a criminal complaint and arrest warrant. I have not included every fact known to me concerning this investigation. Instead, I have set forth only the facts necessary to establish probable cause that the violation of the federal law identified above has occurred. I base my statements in this affidavit on my training and experience, personal knowledge of the facts and circumstances obtained through my participation in this investigation, information provided by other agents, law enforcement officers, and witnesses, and information provided by records and databases. This affidavit reflects my current understanding of facts, but my understanding may change as the investigation proceeds.

AFFIANT BACKGROUND

3. I am a Special Agent with the Federal Bureau of Investigation ("FBI"). I have been so employed since approximately January 2015. I am currently assigned to the San Francisco Field Office, Oakland Resident Agency, to a squad that investigates the sexual exploitation of minor children, including such exploitation via the Internet and computers. Since joining the FBI, I have investigated, among other things, federal criminal violations related to child pornography and the sexual exploitation of minors. I have received training in the areas of child pornography, child exploitation, and human trafficking, and have had the opportunity to observe and review numerous examples of child pornography (as defined in 18 U.S.C. § 2256) in multiple forms of

media, including computer media and cellular and smartphone devices. I have participated in the execution of numerous federal search warrants conducted by the FBI and in the seizure of computer systems and other types of digital evidence.

4. I am an investigator and law enforcement officer of the United States within the meaning of 18 U.S.C. § 2510(7). I am empowered by law to conduct investigations, to execute search warrants, and to make arrests for offenses of Federal law.

APPLICABLE STATUTES

5. Pursuant to 18 U.S.C. § 2252(a)(4)(B), it is unlawful for any person to knowingly possess or access with intent to view any material that contains any visual depiction of a minor engaging in sexually explicit conduct that has been mailed, or shipped or transported using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce by any means, including by computer, or that was produced using materials that have been mailed or shipped or transported in or affecting interstate or foreign commerce by any means, including by computer.

FACTS IN SUPPORT OF PROBABLE CAUSE

A. SFPD arrests KYLE on child pornography charges in 2018

6. In June 2018, San Francisco Police Department (SFPD) received a CyberTip Report from the National Center for Missing and Exploited Children (NCMEC), which indicated that a Tumblr user later identified as KYLE had uploaded child pornography to their Tumblr account. The reported image depicted a nude juvenile male of approximately 11 to 13 years of age who was exposing his prepubescent genitalia. The juvenile was lying on top of what appears to be a nude adult male, and the adult male had his erect penis inserted into the anus of the juvenile male.

7. Based on IP activity associated with the Tumblr and Gmail accounts, Comcast reported the subscriber as an adult male later identified as KYLE's partner with an address in San Francisco, California. An Accurint database search indicated that KYLE was associated with the same address at that time, and that he and the adult male identified as the subscriber

lived together.

8. SFPD executed a search warrant at the same San Francisco address and seized KYLE's phone and computer. SFPD conducted an examination of KYLE's Apple iPhone and laptop computer. On KYLE's phone, indicia was found showing that KYLE used the email address associated with the Tumblr account. A Dropbox link saved in the Notes application of KYLE's phone was found to contain numerous files of child pornography, including approximately 153 images and 13 videos. On KYLE's laptop, SFPD discovered further evidence of KYLE's use of Tumblr.

9. The adult male at the San Francisco address later identified as KYLE's partner was interviewed and told police that, in 2012 or 2013, he found child pornography on KYLE's laptop computer and confronted KYLE. The child pornography KYLE previously possessed consisted of nude photos of boys who were approximately 13 years old.

10. On June 28, 2018, SFPD arrested KYLE for possession of obscene material involving a minor, a violation of California Penal Code § 311.11(A).

11. In July 2020, the Silicon Valley Regional Computer Forensics Laboratory (RCFL) completed the forensic review of KYLE's electronic devices and reported the following:

a. KYLE's laptop computer was found to have approximately 12 images of what appeared to be minor males between the ages of 13-17 years old, who were nude and exposing their genitals. In many of these images, the minor males are posing in positions displaying their penises in a lascivious manner. Two digital images depict pairs of minor males engaged in oral copulation with one another.

b. A "backup" for an Apple Computer Mobile Sync folder was found on the laptop seized from KYLE's home. Within that backup were images (including nude images) of KYLE. The aforementioned Tumblr image of two minor males orally copulating one another was found in the contents of the backup.

B. KYLE distributes child pornography via Telegram to FBI Undercover in 2020

12. In January 2020, the FBI San Francisco Division was contacted by the FBI Knoxville

Division regarding a Telegram user later identified as KYLE, who was observed posting photos and videos of prepubescent boys depicted in sexually explicit activity within a Telegram group that is a public Telegram¹ group known to law enforcement as a group that openly discusses and posts child pornography.

13. A Kik user later identified as also KYLE was a member of various Kik groups that shared similar subject matter including child sexual abuse material (CSAM). After recognizing the profile name and profile picture as being similar to that of the Kik user described above, a law enforcement officer acting in an undercover capacity ("UC") engaged the Kik user in a private Telegram chat session pertaining to KYLE's collection of postings.

14. From January 22, 2020 through January 29, 2020, KYLE posted numerous images and videos of prepubescent boys under the age of 12, nude, and in sexually explicit poses; videos of adult men engaged in anal and oral sex with prepubescent boys under the age of 12; and videos of prepubescent boys under the age of 12, nude, and masturbating or stimulating themselves anally.

15. KYLE distributed a MEGA² link to UC in a Telegram private chat. This link contained 259 videos of child pornography along with numerous child erotica images of prepubescent boys under the age of 12. The videos were found to contain prepubescent boys under the age of 12 engaged in oral and anal sex with adult men and other juvenile boys, as well as prepubescent boys under the age of 12 masturbating and/or engaged in anal stimulation. Additionally, there were numerous videos of prepubescent boys under the age of 10 engaged in sexual activity, including the following:

- a. One video of 8 minutes and 25 seconds in duration depicting a prepubescent boy

¹ Telegram is an application-based communication service. Telegram allows users to communicate with each other by accessing the application directly on their phones and communicate directly with each other through text chats, or by joining available chat groups where users can send and/or receive text chats within the group among the chat group participants. Telegram users can send images, videos, and sound recordings to other Telegram users privately through direct messaging, or to members of a chat group within the group setting.

² Mega.nz ("MEGA") is a cloud storage and file hosting service that enables private, secure online storage, communication, and collaboration for business and individuals. Users are able to store files within MEGA and share links to their MEGA files with other users through various messaging platforms.

under the age of 10, who is depicted first naked and locked in a cage and later depicted engaged in sexually explicit conduct with an adult male.

b. One video approximately 4 minutes in duration depicting a prepubescent boy under the age of 6, who is first asleep in the video and later depicted engaged in sexually explicit conduct with an adult male. The boy wakes up about 4 seconds after the adult male begins to have sexual contact with him.

16. On February 27, 2020, KYLE posted three videos to another Telegram group which depicted what appeared to be a prepubescent boy performing oral sex on an adult male, another prepubescent boy under the age of 6 being restrained and crying while an adult male digitally penetrates his anus, and finally an adult male attempting to penetrate the anus of a prepubescent child with his penis.

C. KYLE is identified as the Telegram user and Kik user described above

17. KYLE sent the UC a picture of himself which was compared to KYLE's DMV photo with positive results. KYLE also sent the UC a photo of his backyard and a purple vehicle.

18. A check of law enforcement databases indicated that KYLE resided at an address in Hercules, California. Comcast provided the subscriber address for IP address activity of KYLE's accounts to be the same address in Hercules, California.

19. In March 2020, FBI surveillance teams reported a 2017 Honda Fit, California license plate 8AUV625, purple in color, parked in the driveway of the same address in Hercules, California. The registered lessees of this vehicle were KYLE and the adult male identified as KYLE's partner as described above at the address in San Francisco, California.

D. Two additional NCMEC CyberTips reported in April 2020 involving KYLE

20. On April 18, 2020 and April 22, 2020, NCMEC received two additional Cyber Tipline Reports from Facebook pertaining to a Facebook user later identified as KYLE, who was reported to have uploaded several images consistent with child pornography.

21. Records were sought and obtained from Comcast pertaining to IP address 2601:644:0:790:e83b:831e:faac:b3ec as provided in the NCMEC CyberTip Reports. Comcast

provided the subscriber address of this account to be same address in Hercules, California.

E. FBI executes search warrant of KYLE's residence and interviews KYLE in July 2020

22. On July 1, 2020, a federal search and seizure warrant, authorized by the Honorable Kandis A. Westmore, United States District Court for the Northern District of California, was executed at KYLE's residence located at the same address in Hercules, California. KYLE's cellular phone, two cell phones and two external hard drives were seized.

23. During an interview with law enforcement officers at his home, KYLE confirmed the Kik and Telegram profiles as his own and admitted he used the Kik and Telegram applications to trade nude pictures of himself with other users in chat rooms.

24. KYLE sent sexually explicit photos of himself to adult males and "sometimes others" which he described as people he thought were at least 18 years old. KYLE said these were "naturist-type" or "nudist"³ pictures of males. KYLE exchanged these photos via groups. KYLE would search Kik and Telegram for groups with keywords "nudist," "nudism," and "naturist."

25. KYLE would Google terms like "naturist youth" looking for photos of young boys and visit random sites. KYLE then sent the pictures he found via his Internet searches within the Telegram groups he was a member of, and KYLE also would receive other pictures of young boys from other group members. He described these photos as "naturist" pictures. KYLE defined "naturist" as unclothed, but not in any particular pose.

26. KYLE sent sexually explicit photos of young adolescent boys within specified groups in Telegram but did not use Kik for that because he thought it was less secure than Telegram. KYLE was a member in some groups where images and videos of young boys engaged in sexually explicit acts were shared. KYLE would click on the images and/or videos and then forward these within the Telegram application. KYLE said he did not distribute the same types of images and videos within Kik. KYLE used Kik for chatting and exchanging nude photos of

³ According to the National Center for Missing and Exploited Children (NCMEC), the term "nudist" was identified as a keyword referring to child pornography in 2010.

himself with other adults.

27. KYLE admitted having a MEGA account profile with the same username and email address known to law enforcement and described above. KYLE received MEGA file links with child pornography from others in the past. KYLE said he used MEGA to receive “naturist” pictures. KYLE admitted viewing videos of young boys engaged in sexual acts within the groups.

F. FBI Forensically Examines KYLE’s Digital Devices

28. Upon review of KYLE’s Apple iPhone 8, IMEI 354893092088624, the Telegram and Kik applications were installed. Law enforcement’s review of KYLE’s iPhone confirmed KYLE’s Telegram username, display name, and associated phone number. Law enforcement’s review of KYLE’s iPhone also confirmed KYLE’s Kik username, display name, and associated email address.

29. KYLE was engaged in various private chats with other Telegram users. Upon initial review, some of these Telegram chats included phrases like “I like boys,” “What ages you like best,” “Do u have son with dad having fun,” “Any boy pics,” “Any good cheese pizza⁴ groups,” and “Fav ages.”

30. Within KYLE’s Kik application⁵, the following group hashtags were observed: “boygay23,” “Gaysgg13_23 [fire emoji],” “Gay 16+,” “Boys Speedos,” “Boys in Briefs1,” “BoysAnyAges,” “Smallisfun,” “Gay & Friendly (15+),” “Original Men and Youth,” and “Solo Boy-Scout.” There were also various groups with the title involving “naturist” or “naturism.” Of note, the group titled “Gaysgg13_23” has a profile photo of what appears to be two adolescent naked males kissing.

⁴ Throughout my training and experience, I know the terms “cheese pizza” and “naturist/naturism” to refer to child pornography. Individuals who engage in online child exploitation will use this terminology to search for images of child pornography and to chat about child sexual abuse material in a covert manner.

⁵ Kik Messenger (“Kik”) is an application-based communication service owned by MediaLab, Inc. Kik is a free instant messaging social networking application that allow users to create an account and then post and share images and videos with other users on the Kik platform. Users can send private messages to other users or join public groups to chat within. Media can be shared via private message or within a group. Users can also create private groups and exclusively invite other users to join.

31. Images and videos depicting child erotica, CSAM, and obscene material were observed on this phone as well as another phone seized, a HTC ARD6400 cell phone, IMSI: 311480004764962, that was last used in April 2013.

32. Two 160GB Seagate hard drives were also seized from KYLE's residence. Upon review of these hard drives, there were website searches and links for pornography websites. Key words/phrases for some of these searches included "teen," "amateur," "boy cock," "boys under," "boy love," "kid cock," "horny boys," "sucking a teen in a changing room," and "BOYS BOYS BOYS." Pornography files depicting adult males as well as nudist images featuring age-difficult and adolescent young males were also found.

G. Search warrant returns for KYLE's Kik Account reveals child pornography

33. Pursuant to a Federal Search Warrant executed to MediaLab, Inc. (Kik) on November 16, 2020, law enforcement reviewed Kik returns pertaining to KYLE's Kik account. The Kik account was identified as the account utilized by DONALD STEPHEN KYLE and the account that first appeared upon viewing KYLE's phone pursuant to the federal search warrant executed on KYLE's residence and person in July 2020.

34. A review of the media content within KYLE's Kik account yielded over 857 image and video files containing child exploitive and child sexual abuse material (CSAM). Of these files, there were 123 unique images and 228 unique videos depicting CSAM and 339 unique images and 82 unique videos depicting child exploitative material.

35. Pursuant to a Child Victim Identification Program (CVIP) submission, NCMEC reported seven known series where the child depicted in the images/videos have been identified. In these series, there were a total of 17 identified child victims.

36. Within the various Kik groups that KYLE was a member of, there were numerous media files consistent with CSAM shared. The following is a representative sample of what media files were observed during the review:

- a. One image of what appears to be the penis of an adolescent male penetrating the anus of another adolescent male.
- b. One video with a duration of 1 minute, 59 seconds, depicting what appears to be an adult digitally penetrating the anus of a prepubescent male, while the prepubescent male is bound with his hands tied to his ankles by black rope.
- c. One video with a duration of 1 minute, 59 seconds, depicting what appears to be a prepubescent male performing oral sex on an adult male.


CONCLUSION

37. Based on the information above, I submit that there is probable cause to believe that, between the approximate dates of June 28, 2018 through July 1, 2020, in the Northern District of California and elsewhere, Donald Stephen KYLE committed the crime of possession of child pornography in violation of 18 U.S.C. § 2252(a)(4)(B), (b)(2).

I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge.

/s/ Meredith Sparano Stanger
MEREDITH SPARANO STANGER
Special Agent
Federal Bureau of Investigation

Subscribed and sworn before me on this 2nd day of July, 2021.



HONORABLE SUSAN VAN KEULEN
United States Magistrate Judge